

RHS, RBS, RUS, FSA, USDA

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1902.14 Reconciliation of accounts.

1902.15 Closing accounts.

1902.16 Request for withdrawals by State Director.

1902.17-1902.49 [Reserved]

1902.50 OMB control number.

EXHIBIT A TO SUBPART A [RESERVED]

EXHIBIT B TO SUBPART A—UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354—INTEREST-BEARING DEPOSIT AGREEMENT

Subparts B-C [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 6991, et seq.; 42 U.S.C. 1480; Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

Subpart A—Supervised Bank Accounts of Loan, Grant, and Other Funds

SOURCE: 46 FR 36106, July 14, 1981, unless otherwise noted.

§ 1902.1 General.

This subpart prescribes the policies and procedures in establishing and using supervised bank accounts, and in placing Multi-Family Housing (MFH) reserve accounts in supervised bank accounts. 7 CFR part 2018, subpart D, provides the procedures Servicing Officials should follow in ordering loan and grant disbursements.

(a) Borrowers referred to in this subpart include both loan and grant recipients. They are referred to as “depositors” in the deposit agreements herein-after described. References herein and in deposit agreements to “other lenders” include lenders and grantors other than Rural Development.

(b) Banks and savings associations referred to in this subpart are those in which deposits are insured by the FDIC.

(c) Credit unions referred to in this subpart are those in which deposits are insured by the NCUA.

(d) Financial institutions as referred to in this subpart include banks, savings associations, and credit unions which are covered by the proper insurance coverage cited in paragraphs (b) and (c) of this section.

(e) Supervised bank accounts referred to in this subpart are bank, savings association, or credit union accounts es-

tablished through deposit agreements entered into between the borrower, the United States of America acting through Rural Development, and the Financial Institution on Form RD 402-1, “Deposit Agreement”.

(f) Form RD 402-1 provides for the deposit of funds in a supervised bank account to ensure the performance of the borrower’s obligation to Rural Development in connection with a loan and/or grant.

(g) “Interest-Bearing Deposit Agreement” (Exhibit B of this subpart), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form RD 402-1.

(h) Servicing officials referred to in this instruction include county supervisors, district directors, local supervisors, area supervisors, and National Office grant program managers.

(i) Automated systems referred to in this instruction refers to the loan accounting systems; e.g., Program Loan Accounting System, Automated Multi-Housing Accounting System, and Dedicated Loan Origination System, from which loan and grant disbursements are ordered.

(j) This subpart includes the National Office directly servicing a grant recipient or recipient of cooperative agreement funds.

[70 FR 59225, Oct. 12, 2005]

§ 1902.2 Policies concerning disbursement of funds.

(a) Generally, loan and grant disbursements may be requested on an as needed basis, thereby reducing the need for supervised bank accounts. For all construction loans and those loans using multiple advances, only the actual amount to be disbursed at loan closing will be requested through the automated systems. Subsequent disbursements will be ordered as needed. However, supervised bank accounts may be used in certain circumstances. For example:

(1) When a construction loan is made and the construction is substantially completed, but a small amount is being withheld pending completion of landscaping or some similar item. In this case, funds not disbursed may be placed

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in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development. In such cases, loan and grant disbursements will be requested in accordance with 7 CFR part 2018, subpart D as necessary, deposited in a supervised bank account, and disbursed as necessary to suppliers, sub-contractors, etc.

(3) Association loan and grant funds made on a multiple advance basis may be deposited in a supervised bank account when required by State statutes or when determined necessary by the loan approval official.

(4) Supervised bank accounts may be used when needed as defined in paragraph (a)(5) of this section to ensure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of Rural Development and other lenders when the accounts are no longer required.

(5) When it is determined by the Servicing Official that special supervision is needed in the management of the borrower's finances, funds may be deposited in a supervised bank account. This supervisory technique will be used for a temporary period to help the borrower learn to properly manage his/her finances. Such a period will not exceed 1 year unless extended by the Servicing Official.

(b) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued.

(c) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances, provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors, regardless of the provisions of the State laws involved.

[70 FR 59225, Oct. 12, 2005]

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§ 1902.3 Procedures to follow in fund disbursement.

(a) The Servicing Official will determine during loan approval the amount(s) of loan or grant disbursement(s)—full or partial—and will process the request to the appropriate automated system in accordance with 7 CFR part 2018, subpart D.

(b) When Treasury check(s) are delivered to the Servicing Official, the Servicing Official will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The Servicing Official should be sure that the check is properly endorsed to ensure payment to the intended recipient. Examples of such restrictive endorsements are:

(1) "For Deposit only to Account No. (Number of Construction Account) of (Name of Borrower) in (Name of Financial Institution)."

(2) "Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of _____.

(c) When necessary, and only under the circumstances listed in § 1902.2, the Servicing Official will establish, or cause to be established, a supervised bank account. Funds deposited in a supervised bank account are to be recorded and accounted for on Form RD 402-2, "Statement of Deposits and Withdrawals".

[46 FR 36106, July 14, 1981, as amended at 53 FR 26588, July 14, 1988; 53 FR 35670, Sept. 14, 1988; 54 FR 39727, Sept. 28, 1989; 70 FR 59226, Oct. 12, 2005]

§ 1902.4 Establishing MFH reserve accounts in a supervised bank account.

(a) *General requirements.* All MFH borrowers required to maintain reserve accounts must place the reserve accounts in a supervised bank account(s) which meets the following requirements:

(1) *Countersignature requirements.* The reserve account must require that any funds withdrawn be countersigned by an authorized FmHA or its successor agency under Public Law 103-354 official.

(2) *Restrictions on collateral.* The financial institution holding the reserve account must ensure that the funds are